CIMB BANK BHD v. KOK KON SANG

HIGH COURT MALAYA, KUALA LUMPUR
ROZ MAWAR ROZAIN J
[CIVIL SUIT NO: WA-24NCvC-1212-03-2024]
14 JUNE 2025

Abstract – *A contemnor who clearly and unequivocally commits multiple breaches of a court order, representing a sustained and deliberate assault on the administration of justice and demonstrating a complete disregard for a court's authority reveals a conduct that strikes at the very foundation of the judicial system. As such conduct ought to be met with firm sanctions, custodial sentences are appropriate and necessary, particularly where there is no remorse and the contempt is persistent in nature, to reflect the gravity of the contempt and to deter similar conduct.*

CIVIL PROCEDURE: *Contempt of court – Committal proceedings – Application for committal against vexatious litigant – Court granted order declaring contemnor a vexatious litigant and restraining him from commencing legal proceedings without leave of court – Whether order binding and enforceable – Contemnor wilfully and persistently committed separate acts of contempt by filing multiple legal proceedings without obtaining required leave – Whether there were repeated breaches of vexatious litigant order – Whether contemnor's conduct a deliberate assault on administration of justice – Whether custodial sentence appropriate for serious breaches of court orders – Whether necessary to reflect gravity of contempt – Rules of Court 2012, O. 52 r. 2*

An order was granted by the court declaring the defendant ('appellant') a vexatious litigant and restraining him from commencing any legal proceedings in any court in Malaysia without the leave of the High Court of Malaya. The vexatious litigant order was duly served on the appellant *via* the plaintiff's ('respondent's) solicitors. The appellant has had knowledge of the said order and to date, no appeal had been filed by the appellant against the vexatious litigant order, which remained binding and enforceable. Despite the clear prohibition in the vexatious litigant order, the evidence established that the appellant had committed 14 separate acts of contempt by filing legal proceedings without obtaining the required leave of the court. The respondent filed an application for committal against the appellant for contempt of court under O. 52 r. 2 of the Rules of Court 2012 ('ROC'). The respondent sought an order that the appellant be committed to prison for wilfully and persistently breaching the court order by filing multiple legal proceedings without obtaining leave of this court as required. It was submitted that there were several aggravating factors that made the

appellant's conduct particularly serious and warranted a significant custodial sentence: (i) there was a pattern of deliberate defiance by the appellant when he committed 14 separate acts of contempt over a period of six months; (ii) the appellant brazenly continued his contemptuous behaviour, even after this court had granted leave for committal proceedings, thereby putting the appellant on clear notice that his conduct was being scrutinised, demonstrating a lack of respect for the judicial process (iii) the appellant's position revealed a fundamental rejection of this court's jurisdiction and authority; (iv) the appellant had been previously imprisoned for contempt, and previous custodial sentences failed to deter his conduct; (v) the appellant had demonstrated a complete absence of any remorse and contrition and despite overwhelming evidence, the appellant had not acknowledged that his conduct breached the vexatious litigant order; and (vi) the appellant's conduct demonstrated a systematic campaign to undermine judicial authority, a calculated attempt to render court orders meaningless and a pattern of escalating defiance that threatened the rule of law itself.

Held (finding appellant guilty of contempt of court):

(1) The cause papers relating to this committal application were properly served on the appellant *via* substituted service and the appellant had acknowledged receipt of the court papers. The appellant had failed to file any affidavit in response to the respondent's affidavits, thereby admitting to all averments put forward by the respondent. The appellant's conduct clearly fell within the first category – repeated specific breaches of the vexatious litigant order. The appellant had been properly served with all relevant documents. He had had sufficient notice to prepare his case. Yet, the appellant had offered no explanation for his non-appearance in court. Thus, proceeding *in absentia* would not cause prejudice as the evidence was clear and undisputed. (paras 7-17)

(2) This court had jurisdiction to hear and determine this contempt application pursuant to O. 52 of the ROC. The service of the contempt proceedings cause papers on the appellant had been properly effected, and the appellant had knowledge of these proceedings. The vexatious litigant order was validly made and remained binding and enforceable, no appeal having been filed. The evidence clearly and unequivocally established that the appellant had committed 14 separate breaches of the vexatious litigant order by commencing legal proceedings without obtaining leave of the court. The evidence consisted of documentary evidence in the form of court records that confirmed the said 14 separate filings. There were no explanations or denial by the appellant. The breaches were wilful and deliberate, committed with full knowledge of the vexatious litigant order. The defendant had offered no defence to the contempt allegations and had not purged his contempt. The burden of proof of beyond reasonable doubt had been satisfied, that the appellant had committed the alleged acts of contempt. (para 18)

(3) The appellant's conduct represented a sustained and deliberate assault on the administration of justice. His repeated filings demonstrated a complete disregard for this court's authority and an attempt to render the vexatious litigant order meaningless. Custodial sentences are appropriate for serious breaches of court orders, particularly where there are no remorse and the contempt is persistent in nature. Thus, a custodial sentence was both necessary and appropriate to reflect the gravity of the contempt and to deter similar conduct. The appellant was to be committed to prison for a period of 24 days. (para 23)

Case(s) referred to:

Ann Joo Steel Bhd v. Pengarah Tanah Dan Galian Negeri Pulau Pinang & Anor And Another Appeal [2019] 9 CLJ 153 FC ***(refd)***

Attorney General Of Malaysia v. Dato' See Teow Chuan & Ors [2018] 3 CLJ 283 FC ***(refd)***

Bumitech Marketing Sdn Bhd v. Suasa Efektif (M) Sdn Bhd [2012] MLJU 1208 ***(refd)***

Dong Yang Elevator (M) Sdn Bhd v. MXC Elevator Sdn Bhd & Ors [2022] 10 CLJ 875 HC ***(refd)***

HSBC Bank Malaysia Bhd v. Tirathrai Sdn Bhd [2009] 1 CLJ 286 HC ***(refd)***

Ng Hee Thoong & Anor v. Public Bank Bhd [1995] 1 CLJ 609 CA ***(refd)***

Tan Sri Dato' (Dr) Rozali Ismail & Ors v. Lim Pang Cheong & Ors [2012] 2 CLJ 849 FC ***(refd)***

Legislation referred to:

Rules of Court 2012, O. 52 r. 2

For the applicant - Lee Tze Jiun; M/s Zairina Loh & Wong

Reported by Suhainah Wahiduddin

JUDGMENT

Roz Mawar Rozain J:

Decision

[1] The appellant's notice of appeal filed at the Court of Appeal stated that he is appealing against this court's decision on 30 April 2025. However, this court did not deliver any decision on 30 April 2025. This case was not scheduled for mention or hearing on 30 April 2025.

[2] It referred to the respondent's application dated 24 January 2025. If so, it is encl. 53, which is the application for committal against the appellant for contempt of court under O. 52 r. 2 of the Rules of Court 2012 (ROC). The appellant was not present in court for the hearing of encl. 53 on 29 April 2025. After standing the matter down to wait for the appellant, this court finally heard the submissions from the respondent's counsel in support of committing the appellant for contempt of court. The respondent seeks an order that the defendant be committed to prison for wilfully and persistently breaching the court order dated 16 July 2024 by filing multiple legal proceedings without obtaining leave of this court as required.

A **Background Facts**

[3] On 16 July 2024, this court granted an order declaring the defendant a vexatious litigant and restraining him from commencing any legal proceedings in any court in Malaysia without the leave of the High Court of Malaya.

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The vexatious litigant order specifically provided that:

(i) the appellant is declared a vexatious litigant;

(ii) the appellant is prohibited from commencing any further legal proceedings in any court in Malaysia except with leave of the High Court of Malaya;

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(iii) the above orders be gazetted;

(iv) costs of RM10,000 to be paid by the appellant to the respondent forthwith subject to allocator fees; and

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(v) liberty to apply.

[4] The vexatious litigant order was duly served on the appellant *via* the respondent's solicitors' letter dated 18 July 2024. The appellant has had knowledge of the said order since July 2024. To date, no appeal has been filed by the appellant against the vexatious litigant order, and the vexatious litigant order remains binding and enforceable.

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The Alleged Acts Of Contempt

[5] Despite the clear prohibition in the vexatious litigant order, the evidence before this court established that the appellant has committed 14 separate acts of contempt by filing legal proceedings without obtaining the required leave of the court. These 14 acts of contempt occurred between 24 July 2024 and 6 January 2025, all after the vexatious litigant order was granted and served. The details of these 14 acts of contempt are comprehensively set out in the plaintiff's affidavits filed in support of this application and are exhibited therein. Summarily, the acts include:

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(i) first to fifth acts of contempt – multiple applications in Shah Alam High Court proceedings;

(ii) sixth and seventh acts of contempt – applications and appeal in this court (WA-24NCvC-1212-03/2024);

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(iii) eighth to 11th acts of contempt – multiple applications in Kuala Lumpur High Court Originating Summons No. WA-24NCvC-3530-09/2024; and

(iv) 12th to 14th acts of contempt – multiple applications in Kuala Lumpur High Court Application for Judicial Review No. WA-25-219-05/2024.

I

Aggravating Factors

[6] Several aggravating factors make the appellant's conduct particularly serious and warrant a significant custodial sentence:

(i) persistence and repetition – a pattern of deliberate defiance

The appellant committed 14 separate acts of contempt over a period of approximately six months from 24 July 2024 to 6 January 2025. This was not a momentary lapse of judgment or a single instance of non-compliance, but rather a sustained campaign of deliberate and persistent disobedience to this court's authority. The temporal sequence of the breaches demonstrated escalating defiance as the first breach occurred merely eight days after service of the vexatious litigant order. Multiple breaches occurred within the same proceedings, showing the appellant's complete disregard for the prohibition in the vexatious litigant order. The breaches continued unabated across different courts (Shah Alam High Court, Kuala Lumpur High Court) and different types of proceedings (originating summons, writs of summons, applications for judicial review). The frequency and volume of filings increased over time, suggesting the appellant viewed the vexatious litigant order as meaningless. This pattern demonstrated not inadvertent non-compliance but calculated and wilful defiance of judicial authority;

(ii) brazen continuation after committal proceedings commenced – escalating contempt:

Perhaps most egregiously, even after this court granted leave for committal proceedings on 22 January 2025, thereby putting the appellant on clear notice that his conduct was being scrutinised for contempt, he continued his contemptuous behaviour. On 27 January 2025, merely five days after the grant of leave for committal, the appellant served yet another originating summons (BA-24NCC-13-01/2025) on the respondent in the Shah Alam High Court. This demonstrated:

(a) a complete lack of respect for the judicial process;

(b) an intention to continue his vexatious conduct regardless of consequences;

(c) escalating defiance in the face of potential criminal sanctions; and

(d) a belief that he is above the law and immune from court orders.

This continuation of contemptuous conduct after formal contempt proceedings had commenced transforms what might have been seen as civil disobedience into outright rebellion against judicial authority;

(iii) fundamental rejection of court authority – doctrinal defiance:

The appellant's position, as clearly articulated in his notice of appeal, reveals not mere disagreement with a particular order but a fundamental rejection of this court's jurisdiction and authority. He specifically stated:

> 1. There is NO WRITTEN LAW on Vexatious Proceedings Act in Malaysia unlike other Commonwealth countries.
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> 2. There is NO PROVISIONS IN THE RULES OF COURT 2012 to commence Vexatious Proceedings procedures.

This position demonstrated a complete misunderstanding or wilful ignorance of this court's inherent jurisdiction. It showed an attempt to substitute his own legal interpretation for that of this court. It also displayed a belief that he can unilaterally determine which court orders are valid and binding. Further, it exhibited a dangerous precedent that litigants can ignore court orders based on their personal legal opinions. The appellant's stance effectively amounts to saying that no court in Malaysia has the power to control vexatious litigation, which would render the entire judicial system powerless against abusive litigants. This goes to the very heart of judicial authority and the rule of law;

(iv) recidivist behaviour – previous contempt history:

The evidence establishes that this is not the defendant's first encounter with contempt proceedings. In his own affidavit filed in support of his application to set aside the vexatious litigant order, the appellant had stated:

> I aver that I was arrested and imprisoned unlawfully without being served with a copy of said application for Order of Committal (Form 107) under Order 52 Rule 2 and without hearing is an abuse of court process.

He further stated in the same affidavit:

> I aver that on 30 July 2024 MIA lawyers Nadeem, Thangaraj & Associate and Ng Yee Lin waiting outside Court Room instructed Court Officers to arrest applicant without notice and put him in Kajang Prison for solitary cell for 24-day or 500 hours without Hearing or Charge in Court.

A warrant for committal was exhibited in the evidence showing the appellant was previously imprisoned for contempt for 24 days. This prior history demonstrated a pattern of contemptuous behaviour across multiple proceedings. From the records, previous custodial sentences have failed to deter his conduct. The escalating pattern of defiance that requires increasingly serious intervention as lenient treatment has proven ineffective in curbing his vexatious behaviour. The doctrine of progressive sentencing applies – repeat offenders who show no capacity for rehabilitation warrant increasingly severe sanctions;

(v) complete absence of remorse, contrition, or attempts at purging contempt:

The appellant has demonstrated a complete absence of any mitigating factors typically expected in contempt proceedings. There was no acknowledgment of wrongdoing. Despite overwhelming evidence, the appellant had not acknowledged that his conduct breached the vexatious litigant order. There was no apology tendered. The courts have consistently recognised that genuine remorse in the form of unambiguous, unqualified apologies tendered at the earliest opportunity is a highly significant mitigating factor. The appellant had offered no apology whatsoever. There was no attempt to purge the contempt. He had made no effort to remedy his breach or demonstrate future compliance.

There was active non-participation, rather than engaging with the contempt proceedings to explain his conduct or seek mitigation, the appellant had completely ignored them. He had failed to file response or answer. The appellant did not file any affidavit in response to the contempt allegations, thereby admitting to all averments through his silence. The absence of any mitigating factors, combined with the presence of multiple aggravating factors, significantly increases the gravity of the contempt and the appropriate sentence; and

(vi) systematic evasion and abuse of court process

The appellant's conduct demonstrated a calculated strategy to evade the consequences of his actions. This court's records showed an avoidance of court appearances. Since the commencement of these contempt proceedings, the appellant had systematically avoided attending court, depriving this court of the opportunity to address his conduct directly. His absence appeared calculated to delay and frustrate the contempt proceedings while he continues filing vexatious applications elsewhere. There was apparent manipulation of court resources. By filing multiple frivolous applications across different courts while avoiding the consequences of his contempt, the appellant was systematically abusing and manipulating court resources. His conduct clogs the court system with meritless applications, thereby prejudicing genuine litigants who require timely access to justice. His evasion demonstrates not merely disrespect for this particular order but contempt for the entire judicial process and the principle that all persons are subject to the rule of law. When viewed cumulatively, these aggravating factors revealed conduct that strikes at the very foundation of the judicial system. The appellant's behaviour demonstrated a systematic campaign to undermine judicial authority, a calculated attempt to render court orders meaningless, a pattern of escalating defiance that threatens the rule of law itself, and a

complete disregard for the rights of other court users and the efficient administration of justice public interest demands that such conduct be met with firm sanctions that vindicate the authority of the courts and deter similar behaviour by others who might be tempted to follow the defendant's example.

Service And Procedural Compliance

[7] The cause papers relating to this committal application were properly served on the appellant *via* substituted service by leaving copies at his last known addresses on 27 March 2025 and by advertisement in the New Straits Times on 28 March 2025. This court had since the service called this matter twice (on 4 March 2025 and 10 April 2025) prior to the hearing of encl. 53 on 29 April 2025.

[8] The appellant had acknowledged receipt of the court papers, as evidenced by his letter to the Court of Appeal dated 2 April 2025, in which he enclosed copies of the cause papers. The appellant had failed to file any affidavit in response to the respondent's affidavits, thereby admitting to all averments put forward by the respondent.

The Law On Contempt

[9] The power to punish contempt is an inherent jurisdiction of the court. As stated by the Federal Court in *Tan Sri Dato' (Dr) Rozali Ismail & Ors v. Lim Pang Cheong & Ors* [2012] 2 CLJ 849; [2012] 3 MLJ 458:

> [20] In dealing with the applications to set aside the leave for committal proceedings, it is necessary for us to consider the law of contempt. A good starting point would be the definition of contempt of court itself. *Oswald's Contempt of Court* (3rd edn), at p. 6 gives a general definition of contempt of court as follows:
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> > To speak generally, contempt of court may be said to be constituted by any conduct that tends to bring the authority and administration of the law into disrespect or disregard, or to interfere with or prejudice parties, litigants, or their witnesses during the litigation.
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> [21] The jurisprudence for arming the court with the power to punish a contempt is best expounded by Brown J *In Re He Kingdon v. SC Goho* [1948] MLJ 17 as follows:
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> > But the root principle on which this inherent power to punish for contempt is founded, and the purpose for which it must be exercised, is not to vindicate the dignity of the individual judge or other judicial officer of a court or even of the court itself, but to prevent an undue interference with the administration of justice in the public interest.

[22] Hence, the power to punish a contempt is not derived merely from statute nor truly from common law but instead flows from the very concept of a court of law (see *Borrie & Lowe's The Law of Contempt* (3rd Ed), at p 465; and Master Jacob (1970) 23 Current Legal Problems 23).

[10] The Federal Court went on to rule in the same case that a breach of a court order constitutes contempt:

[26] Contempt has been reclassified either as (1) a specific conduct of contempt for breach of a particular court order; or (2) a more general conduct for interfering with the due administration or the course of justice. This classification is better explained in the words of Sir Donaldson MR in *Attorney-General v. Newspaper Publishing Plc* at p 362:

> Of greater assistance is the reclassification as (a) conduct which involves a breach, or assisting in the breach, of a court order; and (b) any other conduct which involves an interference with the due administration of justice, either in a particular case or, more generally, as a continuing process, the first category being a special form of the latter, such inference being a characteristic common to all contempts per Lord Diplock in *Attorney-General v. Leveller Magazine Ltd* [1979] AC 440 at p 449.

[11] The appellant's conduct clearly falls within the first category – repeated specific breaches of the vexatious litigant order.

[12] It is well-established that court orders must be obeyed until set aside or varied. In *Ann Joo Steel Bhd v. Pengarah Tanah Dan Galian Negeri Pulau Pinang & Anor And Another Appeal* [2019] 9 CLJ 153; [2020] 1 MLJ 689, the Federal Court held:

[59] It cannot be opened to any person to decide upon himself whether an order of a court which binds him is wrongly issued and does not require his obedience. Until such time it is set aside or varied the order of court is entitled to the obedience and respect from all parties. Any person who fails to obey an order of court runs the risk of being held in contempt with all its attendant consequences (see *Wee Choo Keong v. MBF Holdings Bhd & Anor And Another Appeal* [1993] 2 MLJ 217).

[13] The standard of proof for contempt proceedings in Malaysia is beyond reasonable doubt, not the balance of probabilities. Contempt proceedings are quasi-criminal in nature given that they can result in imprisonment.

[14] As to the evidential burden and standard of proof, the case of *Ng Hee Thoong & Anor v. Public Bank Bhd* [1995] 1 CLJ 609 established that where a defendant fails to provide any form of response on oath to contempt allegations, this constitutes an admission to all averments put forward by the plaintiff.

A **Proceedings *In Absentia***

[15] The appellant has been absent from these proceedings despite proper service. This court had the discretion to proceed with committal proceedings in the absence of the contemnor, as established in *Attorney General Of Malaysia v. Dato' See Teow Chuan & Ors* [2018] 3 CLJ 283; [2018] 2 MLJ 311, where
B the Federal Court held:

> [20] The issue before us is whether this court has the power to proceed with the trial of the contempt proceedings and to impose sentence against both the contemnors (Ah Eng and Doris) who, as affirmed in their affidavits and through their counsel in open court, had offered their
C unreserved, unconditional and unqualified apology and had waived their right to be present in court and were prepared to be sentenced *in absentia*.
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> [21] We are reminded that contempt proceedings are quasi-criminal in nature. Thus, generally the court should avoid making a committal order without giving the contemnor a chance to be present in court to answer
D the charge against her and to raise any plea of mitigation before passing sentence on her. The House of Lords in *Phonographic Performance Ltd v. Inch* [2002] All ER (D) 253 (May) expressed the view that in criminal cases, where the defendant is absent, and the court has the discretion to proceed with the trial, but it is a discretion to be exercised with great caution and with close regard to the overall fairness of the proceedings.
E The trial conducted in the absence of the contemnor must be fair as circumstances permit and lead to a just outcome (see also *Regina v. Jones (Anthony)* [2003] 1 AC 1).
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> [22] By analogy, the above position can and should apply for contempt proceedings, as in the present case before us. The court can exercise its
F discretion to proceed with the contempt proceedings against both the contemnors in the present case in their absence especially when their own counsel had informed the court about their request that their presence in court be dispensed with and that he has full instruction to proceed with the matter as requested.

G **[16]** The Federal Court further held that relevant considerations include:

> [25] *In Re Ellison (A Bankrupt); Hicken (as Trustee in Bankruptcy of Ellison) v. Ellison* [2016] EWHC 2791 (Ch), Warren J proceeded with the contempt proceedings against an alleged contemnor who was out of the country and was not present in court for the trial. In that case, the learned judge considered the following considerations, namely:
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> (a) whether the alleged contemnor had been served with the relevant documents, including the notice of the trial;
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> (b) whether the alleged contemnor had sufficient notice to enable him to prepare for his case;
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> I (c) reason advanced for his non-appearance in court;

(d) whether the contemnor had waived his right to be present in court; and

(e) the extent of disadvantage or prejudice suffered by the contemnor in not being able to be present in court during the trial.

[17] The factors supporting proceeding *in absentia* are satisfied in this case. The appellant was properly served with all relevant documents. He had had sufficient notice to prepare his case. Yet, the appellant had offered no explanation for his non-appearance. This court was of the considered view that proceeding *in absentia* will not cause prejudice as the evidence is clear and undisputed.

This Court's Findings

[18] Having considered all the evidence before this court, these were the following findings:

(i) jurisdiction: this court had jurisdiction to hear and determine this contempt application pursuant to O. 52 of the RoC;

(ii) service: the service of the contempt proceedings cause papers on the appellant had been properly effected, and the appellant had knowledge of these proceedings;

(iii) the vexatious litigant order: the vexatious litigant order dated 16 July 2024 was validly made and remained binding and enforceable, no appeal having been filed;

(iv) breach established: the evidence clearly and unequivocally established that the appellant had committed 14 separate breaches of para. 2 of the vexatious litigant order by commencing legal proceedings without obtaining leave of the court. The evidence consisted of documentary evidence in the form of court records that confirmed the said 14 separate filings. There were no explanations or denial by the appellant. This court took the evidence as admitted and unchallenged (see *Ng Hee Thoong* (*supra*));

(v) wilful and deliberate conduct: the breaches were wilful and deliberate, committed with full knowledge of the vexatious litigant order;

(vi) no defence: the defendant had offered no defence to the contempt allegations and has not purged his contempt; and

(vii) the burden of proof of beyond reasonable doubt had been satisfied, that the appellant had committed the alleged acts of contempt.

Sentence

[19] In determining the appropriate sentence, the courts have identified several key factors. In *Bumitech Marketing Sdn Bhd v. Suasa Efektif (M) Sdn Bhd* [2012] MLJU 1208, the High Court sentenced the contemnors to

two weeks imprisonment for breaching a consent order, as the High Court found that the contemnors were not remorseful or repentant for breaching the consent order in that case. Although *mens rea* is not an essential element for the purposes of finding a person guilty of contempt, the conduct of the contemnors showed that they had the intention of committing contempt.

[20] In *HSBC Bank Malaysia Bhd v. Tirathrai Sdn Bhd* [2009] 1 CLJ 286; [2009] 7 MLJ 168, the contemnors were sentenced to three months imprisonment for contempt of court. The High Court held:

> [84] With respect, I accept without any reservation whatsoever Mr Benjamin Dawson's submission that the machinations of the respondents in the present case are so serious, so gross and too flagrant to be ignored. The temerity of the respondents to do what they did demonstrates not only their utter disregard and lack of respect for the authority, dignity and integrity of the court and the administration of justice, but an overt manipulation and undermining of the legal process without any compunction whatsoever resulting in the court process being used as a tool of oppression and injustice.
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> [85] I am in agreement with learned counsel that the conduct of the respondents in this case is rather exceptional. They are far worse than a mere disobedience of an order. Here there exists a concerted and premeditated plan, and a sustained and manipulative effort to set the order for sale to naught. The fact pattern reveals a startling abuse of court process.
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> [86] These abuses by the second to fifth respondents have scandalised the court and they must be purged and sanctioned. This is imperative for the proper functioning of the administration of justice.

[21] In *Dong Yang Elevator (M) Sdn Bhd v. MXC Elevator Sdn Bhd & Ors* [2022] 10 CLJ 875; [2023] 8 MLJ 488, the High Court held:

> [153] In sentencing the contemnors, I had taken into account the guidelines listed by the High Court in *Juris Technologies and Q & M Dental Group (Singapore) Limited & Ors v. Hong An Liang & Ors*, including the contemnors deliberate act in breaching the AP order, the prejudice suffered by the plaintiff by reason of the deletion and/or concealment of the documents, the fact that the contemnors had not admitted or pleaded guilty to the contempt, had not made an unreserved apology or shown genuine remorse, and had not purged their contempt. I had also factored in the contumelious behaviour and degree of culpability of each individual contemnor.
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> [154] After weighing up all these factors, and in the exercise of this court's discretion to sentence the contemnors for their contempt of court, I find that the just and appropriate sentence for D2 is 15 days imprisonment sentence; for D6 is five days imprisonment sentence; and for Syaza is three days imprisonment sentence.

[155] The imprisonment sentence is meted out in the interest of justice to ensure compliance with order or judgment of court and to act as a deterrent for companies and their members of staff, no matter how senior or junior in the hierarchy, from deliberately defying and/or disobeying *ex parte Anton Piller* orders.

[22] The appropriate sentence was determined with the following considerations in mind:

(i) the serious and persistent nature of the contempt (14 separate breaches);

(ii) the need to uphold the authority and dignity of the court;

(iii) the need for deterrence, both specific and general;

(iv) the aggravating factors outlined above, particularly the recidivist nature of the defendant's conduct;

(v) the absence of any mitigating factors or genuine remorse; and

(vi) the systematic and calculated nature of the breaches over a six-month period.

[23] The appellant's conduct represented a sustained and deliberate assault on the administration of justice. His repeated filings demonstrate a complete disregard for this court's authority and an attempt to render the vexatious litigant order meaningless. The authorities establish that custodial sentences are appropriate for serious breaches of court orders, particularly where there is no remorse and the contempt is persistent in nature. Having regard to all the circumstances and the authorities cited above, this court found that a custodial sentence is both necessary and appropriate to reflect the gravity of the contempt and to deter similar conduct.

This Court Orders

[24] It is hereby ordered that:

(i) the appellant, Kok Kon Sang [NRIC No: 470526-10-5605/3422234], having been found guilty of contempt of court by wilfully and persistently breaching the order of this court dated 16 July 2024, be committed to prison for a period of 24 days;

(ii) the appellant to pay to the respondent the sum of RM50,000 within seven days from the date of the order as compensation for the costs and expenses incurred as a result of his contemptuous conduct;

(iii) the appellant to pay to the respondent costs of this application, encl. 53, in the sum of RM30,000; and

(iv) a warrant of committal issued forthwith for the arrest and detention of the appellant for the period specified in para. 1 above.